

## **Section 3**

### **Partial Assumption Option – “Mixed Capability”**

#### **3.1 Conclusions**

The notion of implementing a partial assumption where portions of the assets, liabilities, and service responsibility are split between the City and District has been proposed and discussed. Although legally and technically feasible, the option is not pragmatic and offers the least service for the most cost and confusion. Both groups of elected officials now agree that this option is not viable. Based on that consensus, a detailed review of partial assumption was not conducted. Some general conclusions in support of that decision are offered in this section.

If this decision is reversed at some time, a complete analysis will be needed then. A partial assumption would result in a negotiated agreement, an arbitrated settlement, or legal determination that specifies all the terms of such arrangement.

#### **3.2 General Overview**

Partial assumption of the District facilities is specifically authorized by RCW 35.13A.050 which states:

“.....the city may assume, by ordinance, jurisdiction of the district’s responsibilities, property, facilities, and equipment within the corporate limits of the city: PROVIDED, that if on the effective date of such an ordinance the territory of the district included within the city contains any facilities serving or designed to serve any portion of the district outside the corporate limits of the city or if the territory lying within the district and outside the city contains any facilities serving or designed to serve territory included within the city (which facilities are hereafter in this section called the “serving facilities”), the city or district shall for the economically useful life of any such serving facilities make available sufficient capacity therein to serve the sewage or water requirements of such territory, to the extent that such facilities were designed to serve such territories at a rate charged to the municipality being served which is reasonable to all parties.”

Partial assumptions have particular application in areas where a special district is facing assumption by multiple surrounding City governments. This circumstance does not exist for Liberty Lake. However, in other cases it is likely that the various existing pieces of district infrastructure will need to be assigned to benefit neighboring jurisdictions. One example of this situation is the court-ordered negotiation that occurred where the City of Bellevue and the Coal Creek Utility District were all involved in such a negotiated settlement. This process tends to take substantial resources and time.

If it were concluded that a partial assumption would render the remaining district unviable, RCW 35.13A.050 also authorizes a district’s Board of Commissioners to conduct a vote of its remaining customers to decide if the city should take over the entire district operations. If that vote were approved, the District would remain a legal entity with elected Commissioners, but all

the staff and operations would be performed by the City as described under the assumption option.

In a letter dated October 7, 2003, the City offered the District a “Proposed Settlement” that would limit the City’s actions to a partial assumption affecting the area within the City limits. The District would retain ownership of all physical assets and related liabilities, property, facilities and responsibilities for the portion of the District outside of the City limits. Further, the City would assume all monetary assets and set aside \$1 million of District monies for activities within the District’s service area south of Sprague Avenue.

At first it was thought that this could enable both jurisdictions to function and resolve the community discord on this topic. While this option might solve the City’s concerns over providing the best possible public services to its citizens and the District’s concerns over sustaining protection of Liberty Lake and representation of customers outside the city limits, it does not address the fundamental economies of utility operations and further confuses an already unclear situation.

It is important to note that as this study began, the idea of a partial assumption was still a strong consideration by both the City and District. In fact many of the goals identified in the City’s scope of work for this study and by the District were oriented toward an examination of several issues related to a partial assumption. Once the City concluded that this option was not viable, further evaluation on the topic was dismissed. Discussions with the District indicate that they concur with the non-viability of this option.

Most significantly, the policies adopted by the City, as shown in Section 1.6, clarified the City’s commitment to maintaining the highest and most efficient level of service and representation throughout the entire community. Based on these policies, concerns that became central to the perceived benefit of retaining two jurisdictions in “partial assumption” roles no longer have merit in this relatively small geographical area.

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### **3.3 Specific Problem Areas for a Partial Assumption**

Under partial assumption, it is assumed that responsibility, infrastructure, assets, and some staff for water and wastewater would shift to the City for service within its city limits. Both jurisdictions would continue to operate their own separate stormwater utility. Responsibility for all other services outside the City, including lake management would rest with the District.

As a matter of record, brief summations of a few of the key problems inherent in a partial assumption are listed below:

#### **3.3.1 Organization**

- Based on which facilities and key functions convert to the City, certain skills and certifications possessed by some key personnel may be required by both jurisdictions.

- Because individual employees of the District would be entitled to make their own transfer decision, those decisions may leave either jurisdiction temporarily short handed as vacant positions are filled.
- The District's ability to maintain a high level of skilled employees could be impacted by a smaller rate base to offer competitive salaries.
- Another new agreement would be required if the City hired all employees and provided all the operations and maintenance for the remaining District at some agreed upon service rate.
- The potential exists for uncoordinated policies, planning efforts, and environmental review between two neighboring jurisdictions.
- The responsibility to serve existing District customers with service commitments may be unclear.

### **3.3.2 Systems and Operations**

- If the City assumed ownership of the wastewater treatment plant, detailed measurements would be needed to fairly allocate costs of operation and upgrades to the District based on contributions of flow and strength. This may require the installation of additional flow meters and increased frequency of strength monitoring.
- If the City opted for the District to retain ownership of the existing wastewater treatment plant and participate instead in the new regional treatment plant proposed in the Valley by Spokane County, then some new infrastructure would be needed to divert City flows through the County's interceptor.
- The District would still have to conduct separate negotiations with the City to use its golf course for land application of reclaimed wastewater effluent.
- An evaluation of costs related to the maintenance of gravity and force main wastewater lines would be needed between both jurisdictions.
- All wastewater lift stations and water booster stations that serve common customers of the District and City would need to be evaluated for proportional usage, repair, maintenance and replacement.
- All water supply wells are located within the City limits and would require a wholesale agreement to cover supply costs and appropriate allocations of pumping and transmission line costs.
- Ultimate responsibility for compliance with source and distribution water quality would need to be established. The liability associated with having clear lines of responsibility is significant.
- All water reservoirs are currently located outside the City and terms for their usage, maintenance, and replacement would need to be negotiated.
- The majority of potential sites for future reservoirs are located outside the City limits.
- The current agreement with ELLIC would have to be honored or renegotiated.

- Easements for access and maintenance activities would be needed on property where facilities are assumed outside the jurisdiction's control.
- Metered interties would be needed at interfaces between the City and District in order to monitor wholesale usage and unaccounted for water demands created by leakage, etc. inside the District service territory.
- Some additional water distribution pipeline looping may be necessitated to separate the City and District systems.
- Other facilities could be physically separated along the new boundary. Physical separation can cause additional problems that may or may not be agreed upon. In some cases, that doesn't make sense from an engineering or operational standpoint because, currently, both systems are functional across that boundary
- Inconsistent standards could exist for the development community having projects in both jurisdictions
- Inefficiency of two completely independent utilities could occur, including but not limited to:
  - ◆ Staffing
  - ◆ Support infrastructures
  - ◆ Planning documents
  - ◆ Duplicate equipment and supplies

### **3.3.3 Financial**

- The statute provides for City assumption of physical assets and related liabilities but not specifically for the financial assets.
- City ownership of the treatment plant without the dedicated financial resources for its expansion could be a significant financial hardship for the City.
- Physical separation poses added intangible costs that cannot be quantified until the physical separation actually occurs, such as the development of wholesale costs for water, wastewater treatment, and any stormwater service between jurisdiction
- Confusion of rate structures and payment procedures for customers throughout the community may be created.
- Significant administrative costs may be incurred related to identifying and separating District and City responsibilities.
- Significant and unnecessary costs associated with separating infrastructure may be incurred, including:
  - ◆ Fair cost sharing for facilities that serve both agencies
  - ◆ Difficult allocation of assets and liabilities
- Significant initial investment may be incurred for negotiating agreements regarding:
  - ◆ the provision of utility service from one entity to another

- ◆ the allocation of future capacity
- ◆ studies to identify infrastructure adjustments necessary for the separation of the utility systems.
- Lack of efficiencies and economies of scale will exist due to duplicate costs associated with:
  - ◆ Dual governance groups of elected officials
  - ◆ Staff positions
  - ◆ Outside consultants
  - ◆ Insurance
- Budgeting and financing for the continuation of lake management activities at past levels of service would need to be revised to reflect a reduced rate base.